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INTERIM REENTRY COURT RULES

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BY THE JUDICIAL CONFERENCE OF INDIANA

**INTERIM
REENTRY COURT RULES**

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Interim Reentry Court Rules

Section 1. Applicability

(a) These rules apply to any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides or intends to provide IC 33-23-14 reentry court services to reentry court participants.

(b) Any person, firm, corporation, partnership, association, foundation, governmental unit, or agency, whether public or private, that provides reentry court services to or for persons ordered by the court to participate in the reentry court must be certified.

Section 2. Notification of Intent

Except as provided in section 4, a court shall notify the Indiana Judicial Center during the planning stages of the court's intention to establish a reentry court.

Section 3. Provisional Certification Procedures

(a) Except as provided in section 4, a court that proposes to establish a certified reentry court under IC 33-23-14 must do the following to become provisionally certified:

- (1) Submit a completed application form for provisional certification and any supporting materials to the Indiana Judicial Center.
- (2) Obtain a provisional certificate of approval from the Indiana Judicial Center.

(b) Upon receipt of all required documents, the Indiana Judicial Center will review the materials submitted. The Indiana Judicial Center may conduct an on-site visit to determine whether the reentry court's practices are consistent with IC 33-23-14 and with the plans for operation submitted with the application. The Indiana Judicial Center may offer recommendations as appropriate.

(c) The Indiana Judicial Center must determine if a prospective reentry court's application for provisional certification should be granted or denied.

- (1) The Indiana Judicial Center must issue a provisional certificate if the Judicial Center finds that the reentry court has:
 - (A) submitted an application that includes a plan for operation that complies with IC 33-23-14 and other applicable federal and state laws;
 - (B) identified appropriate resources to provide the services proposed; and
 - (C) stated its intention to apply for certification once the Judicial Conference Board of Directors adopts final rules governing certification.
- (2) If the application is denied, the Indiana Judicial Center must follow procedures outlined in section 5.

(d) After a reentry court receives the provisional certificate from the Indiana Judicial Center the reentry court may:

- (1) set and require the assessment and collection of fees authorized by IC 33-23-14-12; and
- (2) begin the delivery of participant-related services authorized by IC 33-23-14.

(e) A provisional certificate is valid for eighteen (18) months. At the discretion of the Indiana Judicial Center the provisional certificate may be renewed one (1) time for a period of up to one (1) year. The provisional certificate of approval must be displayed in a prominent place and a copy must be kept on file in the office of the Indiana Judicial Center.

(f) The provisionally certified reentry court must complete an application for full certification and return it to the Indiana Judicial Center with any other materials requested by the Judicial Center no later than ninety (90) days after the Judicial Conference Board of Directors adopts final rules governing certification.

(g) A provisionally certified reentry court must comply with these rules and the provisional certificate is subject to revocation for failure to do so.

Section 4. Certification Procedures for Reentry Courts Operating Prior to the Statute

(a) This section applies to a reentry court that began operation prior to July 1, 2006. The reentry court may continue to operate provided the court follows the procedures in this section.

(b) Prior to July 1, 2007, the reentry court must:

- (1) notify the Indiana Judicial Center in writing of the date the reentry court began operation; and
- (2) state its intention to comply with:
 - (A) IC 33-23-14 and other applicable federal and state laws; and
 - (B) the rules for reentry courts, including the procedure for certification once final rules are adopted.

(c) The Indiana Judicial Center may conduct an on-site visit to determine whether the reentry court's practices are consistent with IC 33-23-14.

(d) Upon receipt of the letter described in subsection (b), the Indiana Judicial Center will issue a provisional certificate to the reentry court that will be valid for a period of eighteen (18) months. At the discretion of the Indiana Judicial Center the provisional certificate may be renewed one (1) time for a period of up to one (1) year. The provisional certificate of approval must be displayed in a prominent place and a copy must be kept on file in the office of the Indiana Judicial Center.

(e) While the provisional certificate is in effect, the court may:

- (1) assess and collect fees under IC 33-23-14-12; and
- (2) operate as a certified reentry court and receive the benefits of the provisions in IC 33-23-14.

(f) The provisionally certified reentry court must complete an application for full certification and return it to the Indiana Judicial Center with any other materials requested by the

Judicial Center, no later than ninety (90) days after the Judicial Conference Board of Directors adopts final rules governing certification.

(g) A provisionally certified reentry court must comply with these rules and the provisional certificate is subject to revocation for failure to do so.

Section 5. Denial of Application for Provisional Certification

(a) The Indiana Judicial Center may deny an application for provisional certification for one (1) or more of the following reasons:

- (1) Permitting, aiding, or abetting the commission of an unlawful act.
- (2) Conduct or practices found by the Indiana Judicial Center to:
 - (A) threaten public health or safety; or
 - (B) be harmful to the health or safety of any participant in the reentry court.
- (3) Deviation from the plan of operation submitted with the application that, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services provided to participants.
- (4) Failure of the applicant to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation.
- (5) Failure of the applicant to provide accurate or reliable information on the application or regarding the reentry court's operations or practices.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to deny the application. The notice must contain all of the following information:

- (1) A brief statement explaining the reasons for the denial.
- (2) A statement that the decision to deny the application will become final unless the supervising judge submits written objections to the Indiana Judicial Center, within thirty (30) days, stating why the denial should not become final.
- (3) If the supervising judge submits timely objections to the proposed denial as described in subdivision (2), and the reentry court is in operation, the reentry court may continue operating, except in extraordinary circumstances, until the conclusion of negotiations and hearings.
- (4) In extraordinary circumstances, the Indiana Judicial Center may limit or deny this period of operation if it determines that continued reentry court operations present an imminent danger to the public health or safety.

(c) If the supervising judge submits written objections, the Indiana Judicial Center must provide a full opportunity for resolution of all disputed issues.

(d) If objections to an impending denial have been submitted, no settlement of the points of contention can be made, and the Indiana Judicial Center denies the application a second time, the supervising judge may, within fifteen (15) days of the date the second denial is issued, request a hearing. The Indiana Judicial Center must provide the hearing and the hearing must be conducted as described in section 7.

Section 6. Suspension and Revocation Procedures

(a) The Indiana Judicial Center may revoke a reentry court's provisional certificate for one (1) or more of the following reasons:

- (1) Permitting, aiding, or abetting the commission of an unlawful act.
- (2) Conduct or practices found by the Indiana Judicial Center to:
 - (A) threaten public health or safety; or
 - (B) be harmful to the health or safety of any participant in the reentry court.
- (3) Deviation from the plan of operation submitted with the application that, in the judgment of the Indiana Judicial Center, adversely affects the character, quality, or scope of services provided to participants.
- (4) Failure of the applicant to cooperate with the Indiana Judicial Center in connection with the certification process or an investigation.
- (5) Failure of the applicant to provide accurate or reliable information on the application or regarding the reentry court's operations or practices.
- (6) Failure to apply for certification no later than ninety (90) days after the Judicial Conference Board of Directors adopts final rules governing certification.

(b) The Indiana Judicial Center must notify the supervising judge, by certified mail, return receipt requested, that the Indiana Judicial Center intends to revoke the provisional certificate. The notice must contain all of the following information:

- (1) A brief statement explaining the reasons for revocation.
- (2) Notification of the Indiana Judicial Center's request for a hearing under section 7(c) to determine the issue of revocation of the reentry court's certificate.
- (3) A statement of the matters of law and fact to be determined at the hearing.

(c) The Indiana Judicial Center may suspend a provisional certificate, upon written notice to the supervising judge provided simultaneously to the notice of the institution of revocation proceedings described in subsection (b), if the Indiana Judicial Center determines an imminent danger to public health or safety warrants this action. The suspension continues in effect until the conclusion of all hearings, including any judicial review, unless sooner withdrawn by the Indiana Judicial Center or dissolved by a court of competent jurisdiction.

(d) Whenever the Indiana Judicial Center determines that any reason exists justifying the revocation of a reentry court's provisional certification, the Indiana Judicial Center must observe the procedures required in section 7.

Section 7. Hearing Procedures

(a) All hearings held to determine issues relating to the denial or revocation of a provisional certificate must follow the procedures described in this section.

(b) A supervising judge who submitted written objections under section 5(b) may file a request for a hearing.

- (1) The request must be in writing and must state the reason for the request for hearing.
- (2) The request for hearing may not include any reasons that were not included in the objections submitted under section 5(b).

(3) The request must be filed with the Indiana Judicial Center within fifteen (15) days after the second denial of the application under section 5(d).

(c) Within thirty (30) days after a request for a hearing has been filed with the Indiana Judicial Center, the Problem Solving Courts Committee (PSCC) shall appoint a hearing examiner to be selected as follows:

(1) The executive director of the Indiana Judicial Center shall create a list naming three (3) judges who are members of the PSCC but who are not members of the Board of Directors of the Judicial Conference.

(2) In designating the three (3) judges the executive director shall consider availability, years of service on PSCC and extent of participation.

(3) The supervising judge shall select one (1) name from the three (3) listed and advise the executive director of the name selected.

(d) The hearing examiner shall conduct an informal hearing with thirty (30) days after the date the hearing examiner is appointed.

(1) At least ten (10) days before the date of the hearing, the hearing examiner shall provide the supervising judge and the Indiana Judicial Center with written notice of the date, time and place of the hearing.

(2) The Indiana Judicial Center must show why:

(A) the application does not meet the provisional certification requirements established by the Judicial Conference of Indiana; or

(B) revocation of the provisional certificate is justified.

(3) Either party may submit evidence.

(4) The hearing examiner is not required to follow any formal rules of evidence or procedure.

(5) The hearing examiner shall make an electronic recording of the hearing and may have a written transcript prepared of the electronic recording. The supervising judge may obtain a copy from the Indiana Judicial Center of the electronic recording or the written transcript if a written transcript has been prepared.

(6) The hearing examiner may ask each party to submit proposed findings and recommendations after the hearing.

(7) The hearing examiner may grant the parties an extension of time for good cause.

(e) Within thirty (30) days after the hearing, the hearing examiner shall submit proposed written findings and recommendations to the supervising judge and the Indiana Judicial Center.

(1) Objections to the findings and recommendations must be:

(A) in writing; and

(B) filed with the Indiana Judicial Center no later than fifteen (15) days after the date the proposed findings and recommendations were issued.

(2) The findings and recommendations will be submitted to PSCC unless the supervising judge gives written notice within the fifteen (15) day period that he or she has decided to withdraw the appeal.

(3) If no objections are filed and PSCC adopts the findings and recommendations as submitted without a hearing, those finding and recommendations become final.

(4) If either the supervising judge or the executive director of the Indiana Judicial Center objects to the findings and recommendations, or if PSCC proposes to modify or reject the findings and recommendations in the absence of any objections, PSCC must conduct a

hearing and provide the supervising judge and the executive director of the Indiana Judicial Center with an opportunity to be heard orally concerning the findings and recommendations. At least ten (10) days before the hearing, the Indiana Judicial Center must give written notice of the date, time and place of the hearing to the supervising judge.

(5) PSCC's findings and recommendations must be adopted by a majority vote of the members present and voting.

(f) The supervising judge or the executive director of the Indiana Judicial Center may request the Board of Directors of the Judicial Conference to review PSCC's decision.

(1) The request for review must be:

(A) in writing describing specific objections to the findings and recommendations adopted by PSCC; and

(B) filed with the Indiana Judicial Center or the supervising judge within fifteen (15) days after the date PSCC renders its decision.

(2) At least ten (10) days before the Board meeting, the Indiana Judicial Center must give written notice of the date, time and place of the meeting to the supervising judge.

(3) The Board's findings and recommendations must be adopted by a majority vote of the members present and voting and are final.

(4) The Indiana Judicial Center shall notify the supervising judge of the Board's decision in writing within ten (10) days after the decision is made.

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